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April 14, 2021

VIA FECFILE AND REGULAR MAIL

Michael Dobi
Sr. Campaign Finance & Reviewing Analyst
Federal Election Commission
1050 First Street, NE
Washington D.C. 20463

Re: Response to Request for Additional Information (October Quarterly Report)
Turning Point Action, C90019597

Dear Mr. Dobi,

This firm represents Turning Point Action ("TPA") with respect to the RFAI issued on or around February 9, 2021. I understand you have been in regular contact with TPA's filing agent, Ms. Ashley Ragan with InCompliance, LLC, and were provided TPA's amended October Quarterly and Year-End FEC Form 5 Reports last week. I also understand you provided a reasonable grace period to respond to the RFAI since Ms. Ragan did not receive the original RFAI via email in February. This letter constitutes TPA's formal response.

1. "Line 7 of your FEC Form 5 filing discloses disbursements made for independent expenditure(s). However, no contributions are disclosed on Line 6, 'Total Contributions.' Each person (other than a political committee) who made a contribution(s) to your reporting entity during this reporting period, whose contribution(s) had an aggregate amount in excess of \$200 within the calendar year, must be itemized on Schedule 5-A, including their identification information, date, and amount of such contribution(s). In addition, memo text must be used to indicate which of these persons made a contribution in excess of \$200 to your reporting entity for the purpose of furthering any independent expenditure. (52 U.S.C. §§ 30101(13) and 30104 (c)(1), (c)(2)(C)) (See <https://www.fec.gov/updates/fec-providesguidance-following-us-district-court-decision-crew-v-fec-316-f-supp-3d-349-ddc-2018/>.) Please amend your report to provide the missing information or provide clarifying information."

TPA properly amended its October Quarterly Form 5 Report on April 7, 2021.

2. "It appears that 48-hour report(s) for the attached independent expenditures was filed late. Please be advised that you are required to file 48-hour reports once you make independent expenditures aggregating \$10,000 or more with respect to a given election any time during the calendar year up to and including the 20th day before the election. The report must be received at the Commission 11:59 p.m. Eastern Standard/Daylight Time by the second day after the communication was publicly distributed or otherwise disseminated. In the report, you must include information for all independent expenditures that have not been previously reported. Each time you make subsequent independent expenditures relating to the same election that aggregate \$10,000 or more, you must file another 48-hour report disclosing these independent expenditures. (11 CFR § 109.10(c) and (e)) Please provide clarification regarding the timeliness of your 48-hour reporting for the independent expenditures in question. Further, if the date disclosed on your Form 5 was the date of payment, rather than the date of public dissemination or distribution, please provide the date of dissemination or distribution. In addition, please be advised that you are required to disclose these independent expenditures, along with contribution and disbursement information, on Form 5 as a regularly scheduled quarterly report. (11 CFR § 109.10(b) and (e))."

Until late 2020, TPA had never conducted independent expenditures in its history. TPA publicly disseminated its first advertisement on August 20, 2020 but did not file its first 48-hour report until September 1, 2020. All future reports were timely filed, however. TPA has now gained experience in the FEC reporting system and will work to ensure any future reports are also timely filed.

3. "Your quarterly report discloses independent expenditures that do not appear on 48-hour reports (see attached). Please be advised that Commission Regulations require that you file 48-hour reports once you make independent expenditures aggregating \$10,000 or more with respect to a given election during the calendar year up to and including the 20th day before the election. The report must be received at the Commission 11:59 p.m. Eastern Standard/Daylight Time by the second day after the communication was publicly distributed or otherwise disseminated. In the report, you must include information for all independent expenditures that have not been previously reported. Each time you make subsequent independent expenditures relating to the same election that aggregate \$10,000 or more, you must file another 48-hour report disclosing these independent expenditures. (11 CFR § 109.10(c) and (e)). In addition, you are required to file 24-hour reports once your independent expenditures aggregate \$1,000 or more after the 20th day but more than 24 hours before 12:01 a.m. of the day of the election. The report must be received at the Commission by 11:59 p.m. Eastern Standard/Daylight Time of the day following the date on which the communication was publicly distributed or otherwise disseminated. In the report, you must include information for all independent expenditures that have not been previously reported. Each time you make subsequent independent expenditures relating to the same election that aggregate \$1,000 or more, you must file another 24-hour report disclosing these independent expenditures. (11 CFR § 109.10(d) and (e)). Please provide clarification regarding whether 24/48-hour reports were required but not filed. If the date disclosed on your Form 5 was the date of payment, rather than the date of public dissemination or distribution, please provide the date of dissemination or distribution."

Two of TPA's 48-hour reports should have included additional independent expenditures. First, TPA's 48-hour report filed on September 5, 2020 inadvertently omitted two small expenditures of \$413.52 and \$518.50 to Rally Forge on September 3, 2020. Second, TPA's 48-hour report filed on September 14, 2020 inadvertently omitted expenditures of \$1,836.00 to Blue Roots Marketing on September 5, 2020, expenditures of \$3,094.00 and \$2,231.30 to Rally Forge on September 5, 2020 and September 9, 2020 respectively, and expenditures of \$1,444.80 to Knight Printing on September 12, 2020.¹

TPA simply confused the reporting requirements in 11 C.F.R. § 104.5(g) (governing 48-hour reports for independent expenditures) with 11 C.F.R. § 104.5(f) (governing 48-hour notifications for contributions), and thus inadvertently failed to aggregate the expenditures referenced above. TPA has since reviewed the applicable law, reviewed its compliance procedures, and will ensure that all future expenditures aggregating over \$10,000 are properly reported in 48-hour reports.

Response to April 13, 2021 Voicemail

Although not at issue in the February RFAI, TPA received a voicemail from Mr. Dobi on April 13, 2021 indicating that he had evaluated TPA's amended October Quarterly and Year-End Form 5 Reports filed on April 7, 2021 and April 9, 2021 respectively. Mr. Dobi therein stated: "there is still discrepancies between the amount of contributions and the amount independent expenditures, and I don't see any explanation for that." TPA is happy to address that issue here.

Only a small fraction of TPA's independent expenditures were funded by website contributions. In reality, the vast majority of TPA's independent expenditures were funded by unrestricted grants from individuals, organizations, and businesses that support TPA's social welfare mission. In contrast to a nonconnected PAC that must report *all* receipts in a Form 3X Report, TPA is an incorporated social welfare organization and therefore only obligated to report "contributions" that were "intended to influence elections" in a Form 5 Report. See 52 U.S.C. § 30104(c)(1), (c)(2)(C); see also <https://www.fec.gov/updates/fec-provides-guidance-following-us-district-court-decision-crew-v-fec-316-f-supp-3d-349-ddc-2018/>. For an organization like TPA that is largely funded by unrestricted grants donated for social welfare purposes, not "contributions" intended to influence federal elections, it is perfectly reasonable for there to be a wide gulf between reported contributions (\$33,795) and reported expenditures (\$1,428,161).

CONCLUSION

TPA trusts this sufficiently answers your questions. Given the small amount at issue, TPA's prompt amendment of its reports, and TPA's relative inexperience with the reporting process this past election cycle, TPA requests the FEC take no further action on this matter.

¹ TPA notes, however, that it did report these expenditures in its October Quarterly Report and these expenditures represent only .67% of TPA's overall independent expenditure spending.

Snell & Wilmer
L.L.P.

April 14, 2021

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Please feel free to contact me directly with additional questions.

Very truly yours,

Snell & Wilmer

A handwritten signature in black ink, appearing to read "E. Spencer", with a stylized flourish at the end.

Eric H. Spencer

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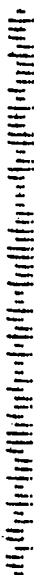


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